
**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

263 - FINANCIAL RESPONSIBILITY: PART I - OVERPAYMENTS

Change # 05 - 2023

January 1, 2024

I. RESPONSIBILITY AND REQUIREMENTS

County Departments of Social Services (DSS) are required to recover overpayments and to correct underpayments. It is the responsibility of county Work First staff to refer possible claims to the Program Integrity section. It is the responsibility of the program integrity section to act on these referrals.

- A. Counties must take prompt action to collect any overpayments of Work First Cash Assistance (WF) or Benefit Diversion (BD). Prompt action is defined as within the second quarter following the quarter in which the overpayment is first identified. Collect the overpayment from Benefit Diversion only if the family unit was monetary ineligible for WF. Non-financial services are not subject to collection.
- B. If an overpayment occurs due to county responsible overpayment **Agency Error (AE)** in complying with program regulations, the overpayment must be entered in **North Carolina Families Accessing Services through Technology (NC FAST)** and recouped by state office adjustment. See **FAST Help job aid: PI - Establish a Cash Assistance Agency Error Claim.**

Inadvertent Household Error (IHE) may occur if an overpayment occurs because of a State or county error in processing the payment. Counties may recoup the overpayment amount from the recipient, only if the recipient was properly notified. The notification requirements are in **policy manual section 264: Notice and Hearings Process.**

- C. Unless the county board or its designee determines that an overpayment results from suspected fraud, all overpayments are collected according to the policy in this section. When there is suspected Intentional Program Violation (IPV) the policy in **manual section 207: Fraud and Intentional Program Violation** must be followed.
- D. Overpayments must be collected from:

The payee or any Work First recipient at the time the overpayment **occurred** was:

- 18 years of age or older,

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

- Lived with the overpaid family unit and was part of the overpaid family unit.

If the payee was not included in the assistance unit, recoument **cannot be used**. (Refer to IV A. Methods of Repayments for other payment options).

- E. All county and recipient responsible overpayments must be reported to the Division of Social Services. (Refer to VI, VII, and VIII. Below).
- F. When an overpayment and underpayment occur during the same period, the difference must be reconciled. (Refer to Part III. Reconciliation).
- G. For cases in which overpayments are identified, counties must maintain sufficient documentation to substantiate legally that an overpayment occurred. If such documentation is not available, counties will not be able to collect the overpayment. In addition, the DHHS Controller's Office must have documentation of a valid **NC FAST** Case ID Number.

Sufficient documentation consists of copies of budgets showing the overpayment calculation, verifications used for the overpayment, etc. Neither a ledger card showing the overpayment information, nor the **Product Liability Case (PLC)** screen in **NC FAST** is sufficient documentation to substantiate the overpayment.

II. WHEN AN OVERPAYMENT OCCURS

An overpayment occurs when an individual or a family unit:

- A.** Receives a payment in which the recipient was not eligible;
- B.** Fails to report a change in situation or provides false or incorrect information which, if reported timely, would deny, reduce, or terminate assistance; **or**
- C.** Receives a payment greater than the authorized payment; **or**

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

- D. Receives continued benefits at the same level during the hearing process, and the hearing officer affirms the reduction or termination (Refer to [Notice and Hearings Process 264](#)).

III. HOW TO CALCULATE AN OVERPAYMENT

The following procedures to calculate both county responsible and recipient responsible overpayments must be used. See [Program Integrity \(PI\) Job Aid – Establish a Cash Assistance Agency Error Claim and PI Job Aid - Establish a Claim Product Liability Case](#).

- A. Verification of all changes according to the eligibility criteria outlined in the Work First Manual, using the policy in effect at the time the overpayment occurred.
- B. Determination of the overpayment period is the first month DSS would have made the change effective had it acted timely and/or the recipient reported timely based on when the change occurred until the month the change is made. To determine the first potential month of overpayment, the county allows for ten (10) calendar days for the recipient to notify the agency of the change and ten (10) workdays for the timely notice ([DSS 8110](#)).

NOTE: The month of change would not be an overpayment month.

For example: A family member began working on April 4, 2023 but reported it in August. The change would have been made effective no later than the June payment. The overpayment period is June, July, August, and September (unless the change can be made effective with the September check).

Date of change:

04/4/23 + 10 calendar days

04/14/23 + 10 workdays from 8110 04/28/23

Enter the following month 05/2023

First month of overpayment June

- C. Determination of the overpayment
 - 1. Based on the reported income, calculate the Work First payment to determine the amount the family unit was eligible to receive.

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

Include all verified income used to determine the Work First payment actually received. Compute the income as instructed by appropriate policy in effect at the time. Apply any appropriate penalties.

2. Recalculate the Work First budget using the actual unreported income received for each overpayment month. If a change in situation or income is enough to cause ineligibility, consider the first month of change and apply reported procedure. Refer to III. B for the overpayment period. For subsequent months, follow appropriate budgeting procedures depending on policy in effect during the overpayment period. Follow all policy including notice requirements. [Refer to policy section 264: Notice and Hearings Process.](#)
 3. Subtract the amount the family unit was eligible to receive from the amount actually received. The difference is the overpayment amount.
- D. Completion of an on-line inquiry into ACTS to determine if child/spousal support is routed through the Child Support Enforcement Section.

When determining the collection amount for the overpayment month, the child/spousal support obligation is always considered. This is also applied when a check is returned, or the agency is responsible for an overpayment.

1. If no support obligation is routed through the Child Support Enforcement Section, the entire overpayment amount is collected. Refer to C. above.
 2. If a support obligation is routed through the Child Support Enforcement Section, the calculation procedures in E. below are used. **(It doesn't matter if the non-custodial parent is currently paying the obligation. What's important is there is an obligation they are ordered to pay).**
- E. For overpayments that occurred on or after April 1, 2000.
1. Determine correct overpayment period. (The month of change would not be an overpayment month).

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

2. Evaluate whether Job Bonus should be applied or 27.5 %. (Effective 4/1/2000 there is no penalty for late reported wages).
3. Determine the correct payment amount using actual unreported income received for each overpaid month.
4. Subtract the correct payment amount from the amount the **household** actually received. This is the gross overpayment amount.
5. Check ACTS to determine whether a child support obligation was in effect at the time of the overpayment. If so, subtract this amount from the gross overpayment amount. This is the net overpayment amount. Compare the net Work First payment to the gross overpayment amount. If the overpayment amount equals or exceeds the Net Work First payment, recoup the lesser amount. If this amount is less than zero there is no overpayment.

F. When determining the overpayment for Benefit Diversion,

1. Calculate the Work First payment based on the reported income to determine the amount the family unit was eligible to receive.
2. Recalculate the Work First budget with the verified unreported income. If a change in situation or income is enough to cause monetary ineligibility, collect the entire overpayment.

IV. HOW TO COLLECT RECIPIENT RESPONSIBLE OVERPAYMENTS

Collection action is initiated when the claim information is entered into **NC FAST**. **NC FAST activates new PLCs each night and then** the **DSS-8226**, Letter of Overpayment **is generated and mailed** to the debtor(s) with a balance greater than "0".

If the referral status changes to **Suspended or Closed** or is deleted the same date the claim is established, the **DSS-8226** notice will not be sent. If a change occurs in either the claim category or the overpayment amount after the **DSS-8226** has been mailed, no additional notices will be mailed to the debtor.

The **DSS-8226** incorporates a repayment agreement for non-participating debtors and notifies participating households that their Work First assistance

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

payment may possibly be reduced each month until the claim is paid in full, if previous arrangements for repayment have not been made.

When recoupment is the method used to collect a claim, a [DSS-8110](#) timely notice must be sent in addition to the DSS-8226. Recoupments can be viewed on the [EPI100CA: CA Monthly Recoupment Summary Report](#) found in NC FAST Operation and Maintenance Reports.

A. Methods of Repayment

1. Voluntary Repayments

The individual may choose to repay the overpayment by one of the following methods.

- a. Payment Reduction (for active Work First recipients) -**
When the recipient agrees to a payment reduction, the recipient shall not be treated more harshly than the recipient who has an involuntary recoupment.

The recipient must sign and date a repayment agreement. It is recommended the agreement be notarized. The agreement must contain the amount of the overpayment, the amount of the collection, the length of time the collection will be made, and the reason for the collection. The recipient receives a copy and the original remains in the case record.

- b. Direct Payments (for active and former recipients) -**
When repayment is voluntary, do not collect more than collected through involuntary collection.

The individual must sign and date a repayment agreement. It is recommended the agreement be notarized. The agreement must contain the amount of the overpayment, the amount of the refund, when the refund will be made, and the reason for the refund. The individual receives a copy and the original remains in the case record.

2. Involuntary Repayment

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # **052023**

Part I - Overpayments

January 01, 2024

- a. **For active Work First recipients**, establish a monthly recovery schedule based on the amount of the recipient's Work First payment and the family unit's countable income.

Use this method when the recipient does not wish to make a voluntary repayment either through a payment reduction or refund.

- b. When a **former recipient who is not currently receiving Work First** refuses to repay the overpayment voluntarily, consider initiating civil court action.

1. Small claims court is **for cases less than \$10,000.00**. This process is designed to be used without an attorney, although one may be helpful. A booklet entitled "A Guide to Small Claims Court" is available at the county courthouse or through Legal Aid of North Carolina, Inc. <https://legalaidnc.org/resource/a-guide-to-small-claims-court/>
2. District court handles cases **of \$10,001 to \$25,000** while superior court handles cases of over **\$25,000**. The county attorney can handle these cases with the investigator's assistance.
3. The county may have the individual sign a judgment by confession if the individual willingly acknowledges the debt to the State/county. Before a person is asked to sign a judgment by confession, the individual must be informed they are:
 - Waiving their right to a trial,
 - Entitled to consult a lawyer and;
 - Possibly eligible for free legal aid. This would eliminate the need for a court trial while still giving the county a legal judgment against the individual. The county attorney can assist in getting the judgment finalized.

Factors to consider in deciding whether to initiate court action include the amount of the overpayment, the cost of court action, and the likelihood of satisfying a judgment given under the North Carolina exempt property law in G.S.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

1C1601. Under the law, each individual can keep a certain amount of property (called exempt property) that the State or a county department of social services cannot obtain even after judgment. For assistance, the worker should consult the county attorney.

Regardless of any court action, all overpayments must be collected. A court may reduce or dismiss the amount of the overpayment to be repaid. It may also order community service work in lieu of or in reducing the overpayment to be repaid. If either or both situations occur, the county, in collaboration with its attorney, must work with the court to have the order amended.

When the court has ordered a repayment of the overpayment and the individual later files for bankruptcy, the individual must continue to repay the overpayment. Filing for bankruptcy does not remove the provisions of the court order.

If an individual is repaying an overpayment, either voluntarily or involuntarily, and later files for bankruptcy, contact the county attorney to determine if the county can continue to collect the overpayment.

- c. Wage Garnishment – Garnishment is a method of collection for IPV claims only. In order for garnishment proceedings to be initiated, the account **must be 60 days delinquent and a civil action must be initiated**. The garnishment cannot exceed 20% of the monthly net income (gross earned income minus legally withheld deductions such as federal and State taxes, Social Security, etc.); income must be verified by contacting the employer or the client. The ESC wage match can be utilized as a last resort.

NOTE: Garnishment should only be used after all other means of collecting payments have been exhausted. For example, if the claim is being recouped or cash payments are being made, garnishment is not allowed.

Garnishment is not an option when an individual has been guilty of an IPV in criminal court and has been ordered by

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

the court to pay restitution. If the individual does not pay in accordance with the court order, a separate civil action can be filed. This needs to be coordinated with the probation officer.

- (1) Prior to garnishment being initiated, the county department of social services **must** obtain a civil judgment against the individual for the amount of the fraudulently received benefits and the cost of the action to recover the benefits. A judgment may be obtained after the civil court hearing is held or by default of the hearing. Default of the hearing occurs when the individual fails to appear for the hearing or fails to make a plea regarding the matter.
- (2) The county department of social services may petition the district court for an Order of Garnishment.
- (3) The Petition for Order of Garnishment must include all of the following.
 - (a) Indication that the person is a former recipient;
 - (b) An explanation of which public assistance programs are involved;
 - (c) The amount of the fraudulent overpayment;
 - (d) Circumstances surrounding the fraudulent benefit and the reason it is fraudulent;
 - (e) Information that all administrative methods to collect the benefits have been exhausted successfully;
 - (f) Verification that county department of social services has obtained a civil judgment (A copy must be attached.);
 - (g) The name and the address of the garnishee - usually the individual's employer;

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

- (h) The amount of the individual's net earned income; **and**
 - (i) Verification that the proposed garnishment does not exceed 20% of the individual's net earned income.
- (4) The petition for an Order of Garnishment must be served on the individual and on the garnishee. The service must be in accordance with Rule 4 of the North Carolina Rules of Civil Procedure, which states that upon the filing of the complaint, a summons shall be issued within five days. The summons shall run in the name of the State and be dated and signed by the clerk of court or his deputy clerk. Service must be made within 30 days after the summons has been issued.
- (5) The individual and the garnishee have 30 days from the date of service to respond to the petition in accordance with Rule 12 of the Rules of Civil Procedure. A hearing is set and is heard before a district court judge. If the judge enters an Order for Garnishment, a copy must be served on the individual, as well as the garnishee. The order must include sufficient findings of facts to support the action by the court and the amount to be garnished each pay period. A certified letter must also be mailed to the garnishee advising him of his responsibilities regarding the Order of Garnishment.

NOTE: The Order for Garnishment may be entered in the county where the individual resides, or is found, or in the county where the overpayment occurred. The order may be served personally or by certified or registered mail, with return receipt requested.

The order is subject to review for modification and dissolution upon filing of a motion in the cause.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

- (6) The amount to be garnished is based on the individual's verified monthly net earned income. The amount garnished each pay period may be increased an additional \$1, which is a processing fee retained by the garnishee (employer) for each payment under the order. The \$1 processing fee is the responsibility of the garnishee.
- (7) Upon receipt of the Order of Garnishment, the garnishee transmits, without delay, to the Clerk of Superior Court the amount ordered by the court to be garnished. The funds are then disbursed to the county department of social services.
- (8) Any garnishee that violates the terms of an order of garnishment is subject to punishment for contempt.
- (9) The court may not enter an order for garnishment if they find that the order jeopardizes the individual's ability to become or remain financially self-sufficient and will result in the likelihood of an increased or recurring dependency on public assistance or an ability to secure basic necessities. The investigator must complete budgets to determine if the garnishment would jeopardize the individual's ability to remain self-sufficient.
- (10) Once the fraudulent benefits and the court costs are paid in full, the county is responsible for removing the judgment in the Clerk of Court's office. The county must remove the judgment within 30 days of the last payment.

3. NC Debt Setoff Collection (Tax Intercept) Procedures

a. What is Setoff Debt Collection (Tax Intercept)?

- (1) Definition of Setoff Debt Collection (Tax Intercept)

NC Debt Set-off (Tax Intercept) is the process by which the North Carolina Department of Health and

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

Human Services (DHHS) intercepts income tax refunds through the North Carolina Department of Revenue (DOR) to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) Claims. Refer to Job Aid PI - NC Debt Setoff in FAST Help.

(2) Legal Basis

North Carolina General Statute 105A provides that the North Carolina DHHS collect from North Carolina income tax refunds money owed by “debtors” because of Work First Program IPV and IHE Claims. Senate Bill 39 revised the Department of Revenue (DOR) processing of setoff claims effective January 1, 2000. The new procedures obsolete the N-5001 certification process, mailing of the DSS-8653 (Notice of Intercept) and manual posting of payments. NC FAST selects debtors/claims that meet the criteria to be submitted for tax intercept, and send a DSS-8653 when DHHS receives the intercept and post the payment at the appropriate time. Refer to Job Aid PI – Posting Payments Reference Guide in FAST Help.

b. Rules for Selecting Claim Debtors for Tax Intercept

- (1) **NC FAST** selects Work First cases/debtors for submission to the NC DOR for NC Debt Setoff using the following criteria:
- (a) Claim must be **Active**.
 - (b) Claim Type must be ‘IHE’ or ‘IPV.’
 - (c) Total of all selected current Claim balance amount(s) must be \$50.00 or more.
 - (d) Must not be in Recoupment status (identified as a recoupment in the last 60 days).

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

- (e) Claim Debtor must be delinquent on the particular claim. Delinquent is defined as: The Claim Establishment Date (located on the **Investigation case**) must be at least 60 days prior to the Current Date **and** the last payment received (located on the **NC FAST Financials tab in the PLC or Person Page**) is at least 60 days prior to the Current Date.

- (f) Debtor must not have a NC Debt Setoff Indicator of **Bankruptcy, Hearing in Process, or Litigation**.

- (2) **Voluntary Repayment Agreement (VRA)** information in **NC FAST**, such as the frequency of payment and the repayment amount, has no impact on the determination of delinquency for DOR selection. Delinquency is determined at the Claim Debtor level. It is possible for a Claim Debtor to be delinquent on one claim and not delinquent for another claim.

- (3) In determining delinquency, **NC FAST** examines the Payments and/or Adjustments (adjustments could offset a payment) that have been recorded in **NC FAST** within the last 60 days.

Following types of payments are considered:

NC FAST will look at the methods of collections (payments) and adjustments for the past 60 days, tracking the total dollar amounts of all payments vs. adjustments. The only value that offsets a payment for delinquency determination is Adjustment.

- (4) "NC Debt Setoff" field on the Debtor **Indicator** Screen must be blank. This means that the person has not been determined exempt from a NC Debt Setoff for the claim or **they have** already been selected for NC Debt Setoff. The following exemptions may be keyed in the NC Debt Setoff field. These **exemptions** are used for reasons other than a DOR hearing such as a

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

request for a fair hearing and this is used prior to DOR's selection of Claim Debtors for debt setoff.

- Hearing in progress (County Use)
- Litigation in progress (County Use)
- State Controller Waived
- Permanently Excluded (State Office Use Only)

- (5) If a Claim Debtor is identified on more than one Claim for the program, and he meets all of the requirements, the Current Balances for all delinquent claims are totaled. If this amount is \$50.00 or more, the Claim Debtor is forwarded for NC DEBT SETOFF.
- (6) **NC FAST populates the NC Debt Setoff Indicator Screen with details** on each claim debtor record for any that has been identified as eligible and forwarded for collection to DOR. The NC Tax Debt Setoff details **are** on the Debtor **Indicator** Screen.
- (7) If a Claim Debtor does not have a Common Client ID (CCID) address (**NC FAST MAILING ADDRESS**), the claim is forwarded to DOR without the address. If a claim debtor has neither a CCID Name nor a SSN, the debtor is not forwarded to DOR.

c. Claims Selected for NC Debt Setoff Report (EPI213)

- (1) The "Claims Selected for NC Debt Setoff" report is produced for each investigator to report debtors and claims that were selected for the NC Debt Setoff process. It is sorted by individual name and program. This report runs weekly and is in the **NC FAST EPI Operations and Maintenance Reports**. The report will not be mailed.
- (2) This report includes Name, Program, SSN, Individual ID, **PLC Case Reference**, **IC Case Reference**, Claim Balance, Claim Category, and Claim Status.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

- (3) This report does not identify which debtors have had a NC tax refund intercepted by DOR. That information is provided on the “30 Day Notice Report.”

d. Notice to the Debtor (DSS-8653)

- (1) Upon receipt of intercepts, **NC FAST** generates the Notice to the Debtor, **DSS 8653**, and **populates the details** in the NC Debt Setoff **Indicator** Screen. A claim debtor may receive multiple notices if there were multiple claims in different counties. The multi-county indicator on the “NC Debt Setoff 30 Day Notice Report” indicates when more than one county is involved. Each notice provides the Claim Debtor with the county name, address and phone number for the Owner County. The “Amount Eligible for NC Tax Intercept” column on each notice will be the total balance for which DOR sent money for that particular county.
- (2) **The NC Debt Setoff Details in the NC Debt Setoff Indicator folder in the Debtor Indicators tab allows an NC FAST user** to determine if a Claim Debtor had a NC Income Tax refund intercepted. Claims appear on this screen from the time the NC Debt Setoff 30 Day Notice is sent, until the time the payment is applied and/or the money is refunded to the Claim Debtor. After the money is applied to the Claim Balance(s) or refunded, the claims no longer appear on this screen as the NC Debt Setoff is now considered complete.
- (3) The debtor has 30 calendar days from the date on the notice to appeal the intercept.
- (4) The debtor can waive the right to a hearing by signing a statement that **the individual** does not want **NC FAST** to wait 35 days before proceeding with the process. When the waiver is signed, **send a request to the State Office to post the payment.**
- (5) Also, if the Claim Debtor requests an appeal of the intercept, **add a litigation hold from the Person Page > Financial Transactions > NC Debt Setoff Intercepts.**

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

- (6) Once the appeal has been decided, **update the status to be appropriate choice to show the results of the appeal.**
- (7) When the NC Debt Setoff Pending Intercept screen is updated with either of the **selections NC FAST**, updates **all** Claim Debtor records for claims included in the intercept.

e. NC Debt Setoff 30 Day Notice Report (EPI 431)

- (1) The “NC Debt Setoff 30 Day Notice Report” is produced for each Investigator to list Claim Debtors mailed a 30-day notice. The “Notice Date” is the date the 30-Day Notice Letter was mailed. It is sorted by name and program. This report runs weekly. The report is not mailed but is viewable in **NC FAST EPI Operations and Maintenance Reports.**
- (2) The report contains the name, program, amount that was sent for NC Debt Setoff and shown on the 30-day notice, amount intercepted, a multi-county indicator to identify if a claim debtor has one or more claims in other counties, address, SSN, and Individual ID.

f. Hearings

When **NC FAST** sends a **DSS-8653**, Notice to Debtor, to an individual whose state tax refund has been intercepted, the debtor may request a hearing through the Office of Administrative Hearings by filling a written Petition. The debtor has a right to request a hearing to contest the intercept unless the debt had been previously litigated in a court proceeding.

- (1) The debtor must obtain the Petition from the Office of Administrative Hearings by calling or writing the Office of Administrative Hearings (OAH) and requesting the form. Additional information may also be obtained online at <http://www.oah.state.nc.us/hearings>.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

- (2) The request for a hearing must be mailed with prepaid postage and properly addressed or delivered to OAH by the 30th calendar day following the date of the DSS-8653. The debtor may not request a hearing by telephone or by contacting the county department of social services.

- (3) The debtor must mail or deliver the original and one copy of the Petition requesting the hearing to the Office of Administrative Hearings at the following address:

OAH Mailing Address:	OAH Physical Address:
Office of Administrative Hearings	Office of Administrative Hearings
1711 New Hope Church	1711 New Hope Church
Raleigh, NC 27609	Raleigh, NC 27609
(984) 236-1850	(984) 236-1850

- (4) As DHHS is the Respondent, the debtor is also required to mail or to deliver a copy of the Petition to: Office of Legal Affairs, DHHS, 2005 Mail Service Center, Raleigh, NC 27699-2005.

- (5) When OAH receives the Petition, a “Notice of Contested Case and Assignment” is sent to all parties, including the Office of Legal Affairs, DHHS, and to the Economic and Family Services Section.

- (6) The Economic and Family Services Section will then contact the county and notify them that the debtor has requested an appeal. Upon notification that the debtor has requested a hearing, the county must update the NC Debt Setoff Pending Intercept screen, **by adding a Litigation hold to indicate the debtor has requested an appeal. See FAST Help job aid: PI Add/Remove TOP/DOR Hearing Indicators.**

- (7) Upon notification of the hearing decision, Economic and Family Services Section will contact the county with the decision. The county must update **status** on the NC Debt Setoff Pending Intercepts Screen depending upon the hearing decision.

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # **052023**

Part I - Overpayments

January 01, 2024

- (8) The definitions for the Appeal Indicators are as follows:
- Pending - Offset pending 35 days.
 - Posted – DOR Offset has been posted to PLC.
 - Posted – Debtor requested – Worker requested posting prior to 35 days.
 - Pending – Favor of County – Offset Posted to PLC due to a hearing in County’s favor.
 - Litigation Hold – Pending until hearing is concluded.
 - Refunded –Refunded back to Debtor.

g. How Payments are Applied

- (1) Money intercepted by DOR is applied to all selected claims for a single program. It is possible that **NC FAST** may receive up to three separate intercepts for a Claim Debtor. A DOR intercept for the Food and Nutrition Program **cannot** be applied to a Work First or Medicaid claim under any circumstance.
- (2) When a claim is paid ‘in full’ by the tax intercept, the claim is by **NC FAST**.
- (3) Each night, **NC FAST** applies intercept payments to eligible claims. Claims are paid off in the order of oldest claim first, based on the Claim Establishment Date. If two or more claims have the same Establishment Date, the payment is applied to those claims at random.
- (4) If the amount of money intercepted exceeds the total amount owed by the Claim Debtor, the remainder is refunded to the Claim Debtor. The remainder is **not** applied to any other program. This may be a point of confusion to the client, as it is possible to receive a refund from the over-collection of one program type, and continue to have an outstanding balance for another program.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

- (5) If a claim debtor becomes nondelinquent from the time of intercept and the time **NC FAST** applies the payment, the payment will still be applied. In the case where the intercepted amount now exceeds the current outstanding balance, a refund will be issued to the claim debtor for the amount of the overcollection.
- (6) The State Controller processes all NC Debt Setoff refunds to the Claim Debtor. Refund checks will be written each week on Tuesday. All NC Tax Intercept Refunds will appear on the **EPI 105** Refund Report for TOP and DOR overcollections. This report is produced daily and available in X/PTR.
- (7) After the intercepted amount has been either applied, refunded (or both), all claims that were part of the intercept will have their NC Debt Setoff Indicator set to space by **NC FAST**.
- (8) **NC FAST** records all NC Debt Setoff payments. Once the payment is applied, it is visible **on the Person Page or Product Liability Case (PLC) Financials**.

h. Claims Exempt from NC Debt Setoff Report (EPI 429)

- (1) **NC FAST** generates a weekly “DOR Exempt Report” of debtors who meet the selection criteria for NC Debt Setoff but were not submitted for the following reason.
 - (a) **The report displays the NC Debt Setoff status for any Debtors listed.**
 - (b) **The indicator on the NC Debt Setoff pending Intercept Screen has an Appeal.**
- (2) This report contains Name, Program, SSN, Individual ID, **PLC Case Reference, IC Case Reference**, NC Debt Setoff Indicator and Appeal Indicator. This report is produced for each Investigator and is sorted by name and program. This report is **available in NC FAST EPI Operations and Maintenance Reports**. The statewide report is viewable by all counties.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

i. DOR Appeal Refund (EPI 160)

- (1) **NC FAST** generates a daily report of debtors with an Appeal indicator. This report is not cumulative and will not display if the county has not entered an the previous workday. Use this report to determine if the debtor should be blocked from future submission for the NC Debt Setoff collection. If appropriate, update the NC Debt Setoff field on the Debtor **Indicator Screen**
- (2) This report contains Name, Program, SSN, Individual ID, **Appeal Date, Intercept Date, Current Balance**, and Intercept Amount. This report is produced for each investigator and is sorted by name and program. This report is available in NC FAST EPI Operations and Maintenance Reports.

j. DOR Intercept Requirements

- (1) In order to participate in the NC Debt Setoff Collection Act, agencies must register with DOR. The priority order for DHHS programs to collect intercepts are: Child Support, Medicaid (TPR), Food Stamps, AFDC/Work First, Medicaid (recipient overpayments), respectively.
- (2) DHHS provides a file to DOR each week on Tuesday. Each weekly file replaces the previous week's file. It reflects **NC FAST** latest claim balance and adds or drops records depending on current balance and selection criteria.
- (3) DHHS receives a file back from DOR reporting the offset amounts. DOR sends a notice directly to the taxpayer as soon as they make the intercept. In the 7 weeks time it takes DHHS to apply the payment, other payments by the debtor may reduce the claim balance, which may result in a refund.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

EXAMPLE: A Claim Debtor entitled to receive a \$300.00 NC Tax Refund has a \$400.00 Food Nutrition claim and \$200.00 AFDC/Work First claim. These amounts were submitted to DOR. Treasury Offset Program (TOP) pays off the Food Nutrition claim after submission to DOR but before the intercept is received by DHHS. DOR sends the \$300.00 refund to the Food Nutrition Program. Since the Food Nutrition claim was paid out, the \$300.00 must be refunded to the taxpayer. DOR does not allow intercepts targeted for one program to be applied to another program.

- (4) The following procedure explains the approximate 7 weeks time frame for posting of payments in **NC FAST**.
- (a) DHHS creates a file of the current AFDC/Work First claim balances each weekend.
 - (b) DOR decides which tax refunds can be intercepted and processes the Refund Job on the following weekend.
 - (c) The following Monday, DHHS receives the file from DOR to show individual offset amounts by SSN.
 - (d) DOR sends bi-weekly electronic funds transfers to DHHS Controller's Office. The DHHS Controller's Office and State DSS reconcile balances. The State Controller then notifies **NC FAST** to run the 30-Day Notices.
 - (e) **NC FAST** mails the 30-Day Notice, to the debtor using DOR address, and waits 35 calendar days (30-days for the client to request a hearing plus 5 days for mailing). **NC FAST** display's the referral on the NC Debt Setoff Pending Intercept screen during this timeframe.
 - (f) Unless the setoff is appealed, **NC FAST** automatically applies payments 35 calendar

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

days after the 30-Day notice date. The payment may be applied earlier if the debtor waives the right to a hearing **the status is updated** in the NC Debt Setoff field on the Debtor **Indicator** screen. Once payment is applied, the referral is removed from the NC Debt Setoff Pending Intercept screen.

k. North Carolina Education Lottery Interceptions

- (1) What is NC Education Lottery (NCEL)?

Definition of NC Education Lottery Interception (NCEL)

The NC Education Lottery Interception (NCEL) is a process in which lottery winnings are intercepted to repay Intentional Program Violation (IPV) and Inadvertent Household Error (IHE) claims. Lottery winnings must be at **least** \$600.00 for an interception to take place.

- (2) Legal Basis

North Carolina General Statute 18C provides that prize payments may be used to satisfy debts owed to NC DHHS. NCGS 18C-133(a) states: By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the game-play rules adopted by the Commission that apply to any particular lottery game involved.

I. NCEL Interception Requirements

- (1) NCEL uses the same rules for selecting eligible debtors as the NC Department of Revenue (DOR). Refer to 3. B. above. **NC FAST uses the same statuses** in the same fields for DOR and NCEL.
- (2) The DHHS provides a file to NCEL each week. Each weekly file replaces the previous week's file. It reflects **NC FAST** latest claim balances and drops or adds claims depending on the current balance and selection criteria.

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # 052023

Part I - Overpayments

January 01, 2024

- (3) NCEL provides a file to DHHS as money is intercepted. **NC FAST** or DHHS sends a notice, DSS 8234, to the debtor regarding the interception and the claim balance. The notice will advise the household of the following:
- a. The amount intercepted, applied, and the claim is paid in full or,
 - b. The amount intercepted, applied, and the remaining balance of the claim or,
 - c. The amount intercepted, applied, and the amount to be refunded.
- (4) Unlike DOR interceptions, the debtor does not have a right to a hearing or appeal regarding the NCEL interception.

B. Sources of Repayment and Repayment Limitations

Overpayments may be recovered from the following:

1. The payee of the overpaid assistance unit.

- a. When the parent is payee only, the county must collect from the countable income (unless SSI) and the countable income and resources of the assistance unit. If they receives SSI, they may agree to a voluntary repayment. Refer to A. above.
- b. When the payee is a specified relative other than a parent and not included in the assistance unit, collect from the countable income and resources of the family unit.

2. Any Work First recipient if at the time the overpayment occurred:

- a. Was age 18 or older;
- b. Lived with the overpaid family unit; and
- c. Was part of the overpaid family unit.

For both a voluntary and involuntary repayment, collect overpayments from all countable income and assets of the family unit. This includes the family's gross countable income, liquid

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

assets, and the Work First payment. However, the family unit must be allowed to retain an amount not less than 90% of the Work First payment received by a family of similar composition with no other income.

When calculating the repayment amount, consider only income and assets used to determine eligibility for and payment amount of Work First. Refer to Work First policy manual section 114: [Income and Budgeting](#). When you calculate a repayment amount that would result in a zero payment case or ineligibility, authorize a \$25.00 payment. Recalculate the collection period so the assistance unit will be eligible for \$25.00.

C. Writing Off Overpayments

1. When an individual no longer receives Work First Cash Assistance, collection may be suspended when:
 - a. All responsible debtors are deceased; or
 - b. Debtor has filed bankruptcy and the bankruptcy court has discharged the overpayment. To determine whether the overpayment can be collected, consult with your county attorney.
2. To request that a claim for an overpayment be written off, send a written request on county letterhead to the Economic and Family Services Section, 2420 Mail Service Center, Raleigh, NC 27699-2420. The request must include:
 - PLC Case Reference
 - Casehead Name
 - Program Case ID
 - Overpayment Period
 - Current claim balance
 - Reason for the write off
 - Investigator's signature
 - Program Integrity supervisor's signature
3. The Economic and Family Services Section will forward the request to the DHHS Controller's Office or the Attorney General's office for

WORK FIRST
FINANCIAL RESPONSIBILITY

Change # **052023**

Part I - Overpayments

January 01, 2024

approval to write off the claims. Once approval is obtained, the State will proceed to close the claims in **NC FAST**.

4. The county must maintain the written notices to the individuals responsible for the overpayment and sufficient documentation to substantiate that an overpayment occurred. See I. G. above.

V. COLLECTION OF RECIPIENT RESPONSIBLE OVERPAYMENTS WHEN FAMILIES MOVE FROM ONE COUNTY TO ANOTHER

- A. The collection of recipient responsible overpayments is the responsibility of the first county until the case becomes active in the second county.
- B. When the case becomes active in the second county, the collection of the overpayment becomes the second county's responsibility.
- C. The overpayment may be collected either by a refund or a payment reduction.
- D. Because the second county assumes the administrative costs for **collection, it will not reimburse the first county when collections are received.**

VI. HOW TO REPORT COUNTY RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

- A. When a county has determined that an overpayment occurred because of a county responsible overpayment in complying with program regulation, the overpayment must be recouped by state office adjustment. The claim must be entered into **NC FAST** with a claim type of **Agency Error and type "County"**, the **overpayment amount, the over issuance period, and current balance**. **A Product Liability Case will be created and closed. Please refer to the PI FAST Help job aid: PI - Establishing a Cash Assistance Agency Error Claim.**
- B. The overpayment is collected by State Office adjustment of county funds.
- C. If the county responsible overpayment is collectible from the recipient (See I. B. above.), enter the claim into **NC FAST** as an Inadvertent Household Error (IHE). **NC FAST** will mail the **DSS-8226**, Letter of Overpayment to all debtors on the claim if the amount is greater than zero. The claim balance will remain collectable from DOR and NCEL until there is a zero balance.

**WORK FIRST
FINANCIAL RESPONSIBILITY**

Change # 052023

Part I - Overpayments

January 01, 2024

VII. STATE RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

If an overpayment occurs because of a State Office error in interpreting Federal and State rules and regulations, the overpayment is charged to the State.

VIII. HOW TO REPORT RECIPIENT RESPONSIBLE OVERPAYMENTS - ACTIVE AND INACTIVE CASES

Recipient responsible overpayments are reported through **NC FAST**. **Create either an Intentional Program Violation or Inadvertent Household Error claim, add all debtors associated with the claim. A product Liability Case (PLC) will be created.** The claim balance will remain collectable from DOR and NCEL until there is a zero balance.